

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Orville Guth, individually and on behalf of all others similarly situated,

Plaintiff,

v.

SYNGENTA CORPORATION,
SYNGENTA CROP PROTECTION, LLC, and
SYNGENTA SEEDS, INC.,

Defendants.

Civil Action No. 0:14-cv-4464-RHK-SER

The Honorable Richard H. Kyle

**JOINT STIPULATION AND MOTION FOR STAY
PENDING TRANSFER OF THIS ACTION BY THE
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

Orville Guth (“Plaintiff”), and Syngenta Seeds, Inc., Syngenta Crop Protection, LLC, and Syngenta Corporation (collectively, “Syngenta”), respectfully submit this joint stipulation and motion in order to request the relief described as follows:

WHEREAS, Plaintiff initiated this action on October 23, 2014, *see* Dkt. 1, and served Syngenta on October 27, 2014;

WHEREAS, Syngenta filed a consent motion to extend Syngenta’s time to file a responsive pleading until December 17, 2014;

WHEREAS, this case is one of more than 100 cases concerning the same subject matter currently pending in federal courts in numerous different states;

WHEREAS, the Judicial Panel on Multidistrict Litigation (“JPML”) is currently considering an unopposed petition to transfer these cases into federal Multidistrict Litigation (“MDL”) for coordinated or consolidated proceedings under 28 U.S.C. § 1407, and has

scheduled the matter for its December 4, 2014 hearing session, *see In re Syngenta MIR162 Litig.*, MDL No. 2591;

WHEREAS, Plaintiff and Syngenta agree that a stay pending MDL transfer will help ensure efficiency and avoid inconsistent results given multiple cases concerning the same subject matter that are poised to be centralized in an MDL proceeding;

WHEREAS, this Court has the inherent power to grant a stay, *see Landis v. No. Am. Co.*, 299 U.S. 248, 254 (1936); and

WHEREAS, courts routinely stay cases pending the JPML's transfer of an action into an MDL, in order to conserve party and judicial resources and avoid inconsistent results, *see, e.g. Calder v. A.O. Smith Corp.*, No. CIV.04-1481 JRT/AJB, 2004 WL 1469370, at *1 (D. Minn. June 1, 2004) (holding that it is appropriate to defer the resolution of certain pretrial matters until the Panel renders a decision with regard to whether a case should be transferred to the MDL court" and that "deference to the MDL court for resolution of these matters provides the opportunity for the uniformity, consistency, and predictability in litigation that underlies the multidistrict litigation system"; *Bonenfant v. R.J. Reynolds Tobacco Co.*, No. 07-60301-CIV, 2007 WL 2409980, at *1 (S.D. Fla. July 31, 2007) ("It is common practice for courts to stay an action pending a transfer decision by the JPML."); *Maiben v. CSX Transp. Inc.*, No. 09-0125-WS-B, 2009 WL 1211186, at *1 (S.D. Ala. May 1, 2009) ("Furthermore, review of the court file reflects that staying this action pending transfer by the MDL Panel would promote the interests of efficiency and judicial economy, would mitigate the possibility of inconsistent results between sister courts, and would not prejudice the parties in any respect."); *Cajun Offshore Charters, LLC v. BP Prods. North Am., Inc.*, No. 10-cv-1341, 2010 WL 2160292, at *2 (E.D. La. May 25, 2010) ("Courts frequently grant stays in cases when an MDL decision is pending."); *Packer v.*

Power Balance, LLC, No. 11-802, 2011 WL 1099001, at *1 (D.N.J. Mar. 22, 2011) (“Stays . . . are common when the issue of transfer is before the JPML.”).

WHEREUPON, Plaintiff and Syngenta jointly request entry of an order providing that this case, including the deadline for responsive pleadings, is stayed pending the transfer of this case by the Judicial Panel on Multidistrict Litigation.

November 12, 2014

Respectfully submitted,

/s/ Daniel E. Gustafson (with permission)

Daniel E. Gustafson (#202241)
Daniel C. Hedlund (#258337)
David A. Goodwin (#386715)
Eric S. Taubel (#0392491)
GUSTAFSON GLUEK PLLC
Canadian Pacific Plaza
120 South 6th Street, Suite 2600
Minneapolis, MN 55402
T: (612) 333-8844
F: (612) 339-622
E-mail: dgustafson@gustafsongluek.com
dhedlund@gustafsongluek.com
dgoodwin@gustafsongluek.com
etaubel@gustafsongluek.com

Patrick W. Michenfelder (#24207X)
GRIES LENHARDT MICHENFELDER
ALLEN, PLLP
12725 43rd Street NE, Suite 201
St. Michael, MN 55376
T: (763) 497-3099
F: (763) 497-3639
E-mail: Pat@GLMALaw.com

Counsel for Plaintiffs

/s/ Douglas W. Peters

Douglas W. Peters (#347024)
KUTAK ROCK LLP
1650 Farnam Street
The Omaha Building
Omaha, NE 68102-2186
Tel: (402) 346-6000
Fax: (402) 346-1148
Douglas.Peters@KutakRock.com

Thomas K. Klosowski (#176321)
KUTAK ROCK LLP
U.S. Bank Plaza South
220 South Sixth Street, Suite 1750
Minneapolis, MN 55402-4513
Tel: (612) 334-5000
Fax: (612) 334-5050
Thomas.Klosowski@KutakRock.com

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on November 12, 2014, I electronically filed the foregoing with the Clerk of this Court by using the CM/ECF system, which will provide notice to all users of record.

/s/ Douglas W. Peters

DOUGLAS W. PETERS